

REMARKS

The applicants appreciate the consideration provide by the examiner in the office action mailed April 29, 2008. By this submission, claims 1, 6, 9, 11, 13, 16, 21, and 26 are amended as to matters of form. Claims 2-4, 15, 17-20, and 22-25 are previously presented and claims 5, 7-8, 10, 12, and 14 are canceled. Claims 1-4, 6, 9, 11, 13, and 15-26 are therefore currently pending. The applicant respectfully requests reconsideration and allowance of these claims based on the above amendment and the following comments.

Interview Summary

The applicants appreciate the courtesy of the examiner in conducting a telephonic interview on July 11, 2008, with a follow up interview on July 14, 2008. The applicants also appreciate the examiner indicating that any subsequent office action would be in non-final status. During the interview, in response to questioning from the applicants' representative, the examiner stated his belief that Arakawa teaches identifiers of mobile units, but conceded that Arakawa did not teach *terminals* with fixed and unique identifiers. Based on this concession the examiner indicated that at a minimum, any subsequent office action would be non-final. The following features of the applicants' claims were also discussed in the interview: setting a start and end of an ownership communication period, associating the ownership communication period with the terminal, and notifying the user that the ownership communication period is ending. The applicants' representative asserted that these features are not disclosed in Arakawa, while the examiner did not explicitly agree.

35 U.S.C. §102(e)

Claims 1-4, 6, 9, 11, 13, and 15-26 stand rejected under 35 U.S.C. §102(e) as being anticipated by Arakawa, U.S. Patent 7,283,810 (“Arakawa”). The applicants respectfully traverse the rejections.

The applicants would preliminarily address the matter related to the drawings. The action states that drawings can anticipate claims if they clearly show the structure that is claimed, noting MPEP §2125. The applicants do not dispute this assertion, but simply note that the office action does not demonstrate how particular drawings disclose particular features of the claims. Just because drawings can anticipate claims does not necessarily mean that in a particular case, the drawings actually do anticipate claims. In the present application, there are several instances where the cited drawings do not illustrate any features of the claims.

The applicants would also point out a certain ambiguity in Arakawa. Arakawa refers to a “terminal device” throughout the specification and claims which is directed to a computer at a remote management site. See for example, column 4, line 65 – column 5, line 3. This can be confused with the communication terminal 56 in Fig. 2 of Arakawa. In contrast, when the present application refers to a terminal, it is specifically referencing the communication terminal 14 and communication controller 12 of the applicants’ Fig. 2. See page 12, lines 4-8 of the applicants’ original specification. Thus, the present claims recite, “a terminal provided on a construction machine...”

As to Arakawa itself, the reference relates to a communication device of a mobile unit for carrying out communications between a mobile unit, such as a construction machine, and a terminal device remote from the mobile unit. See Arakawa at column 1, lines 13-16 and column 4, lines 63-64. Embodiments in Arakawa address a number of issues related to the above

communication, including the mobile unit transmitting data unsolicited from the remote terminal (see column 2, lines 24-28), managing the storage and dispatch of construction machines by real-time recording of the storage and dispatch history of a mobile unit (see column 3, lines 57-61), communication between the mobile unit and the remote terminal occurring while the engine of the mobile unit is off (see column 4, lines 9-25), and more generally, detecting the location of the mobile unit at various time and places (see column 5, lines 53-67).

In contrast to Arakawa, claim 1 recites a construction machine management system comprising a terminal having a unique and fixed identifier and provided on a construction machine and a server connected to the terminal through a communication channel. The server is configured for managing construction machine information unique to the construction machine, managing terminal user information unique to a user of the terminal, associating the unique and fixed identifier with the terminal, setting a start and an end of an ownership communication period, associating the ownership communication period with the terminal, acquiring the unique and fixed identifier of the terminal from the terminal user information managed by the server, and notifying the user that the ownership communication period is ending when the ownership communication period ends

Thus in contrast to Arakawa, claim 1 does not involve the details of transmission of information between the mobile unit and a remote location. This is easily seen when considering the statements in the office action as to the teachings of Arakawa. Initially, the action states that Arakawa teaches a construction machine having a communication terminal mounted on it, with each terminal having a fixed and unique identifier, citing Fig. 2, item 56, Fig. 31, Fig. 16(a-d), Fig. 17(a-c), Fig. 27, column 11, lines 58-64, column 29, lines 13-22, and column 15, lines 50-60. None of these citations refer, however, to a *fixed and unique* identifier associated with a *terminal provided on a construction machine*. It can be observed that column

29, lines 13-22 does refer to “mobile unit identifiers,” however this is not equivalent to a *terminal* having a fixed and unique identifier. The claimed identifiers provide the advantage that claimed terminals can be managed from a remote server, irrespective of the construction machine upon which they are provided. In this way, terminals can be transferred from one machine to another. See the specification at page 4, line 20 – page 5, line 6. The applicants would respectfully point out that while it may be possible in Arakawa to identify each mobile unit, even through a communication terminal at the mobile unit, there is simply nothing in Arakawa that suggests or discloses a *fixed and unique identifier* associated with a terminal. The applicants assert that claim 1 is allowable for at least this reason.

The applicants further assert that Arakawa does not disclose an ownership communication period related to the terminals recited in claim 1. This assertion is supported by reviewing the statements in the office action as to the teachings of Arakawa. Initially, the action states that Arakawa discloses setting an ownership communication period at column 69, lines 4-32. However, inspection of this passage reveals only that this relates to a utilization period, that is when the mobile unit can be operated and/or turned on and off. This does not describe an ownership communication period such that an owner of terminals can communicate with the terminals and/or receive information from the terminals.

It is also clear that Arakawa does not disclose the feature of claim 1 reciting “associating the ownership communication period with the terminal,” in that Arakawa does not disclose a communication period but at best a utilization period. Further, even assuming a utilization period to be considered a communication period (which the applicants do not), the period is not associated with the terminal, but at best, associated with a mobile unit.

The office action also states that Arakawa teaches notifying a user of a management terminal (please note the difference between the management terminal in Arakawa and the “terminal” on a construction machine in the present application, as described above) when an ownership/rental period is coming to an end. The action cites columns 56, lines 6-30 and column 60, lines 60-67. However, the first cited passage at best describes an information screen stating that communications between a vehicle 31 and server terminal 21 have stopped. Claim 1 is distinguishable over this passage for two reasons. The passage does not describe notifying a user that an *ownership communication period* has ended, but merely that communication has ended. Further, since the ownership communication periods of claim 1 relates to use of a terminal, Arakawa is not notifying a user that a communication period *vis a vis* a terminal is ending. The second citation above (column 60, lines 60-67) also does not anticipate the features of claim 1. That passage describes displaying information regarding a rental period coming to an end. Again, this is simply not equivalent to an ownership communication period.

The applicants assert that claim 1 is allowable over Arakawa for at least the reasons above regarding the ownership communication period. The applicants also respectfully point out that the remaining independent claims, 16 and 22, recite features that are similar to those in claim 1 that are not found in Arakawa. For example, claim 16 recites a construction machine management system, comprising:

a plurality of terminals each having a unique and fixed terminal identifier;

one terminal of the plurality of terminals being provided on one construction machine of the plurality of construction machines; and ...

an ownership communication period associated with the one terminal, the ownership communication period having a start and an end; and

data associating a length of the ownership communication period with the one terminal, wherein

the server is configured to monitor the one terminal and notify a user of the terminal that the ownership communication period is ending when the ownership communication period ends.

Further, claim 22 recites a construction machine management system comprising:

a terminal having a unique and fixed terminal identifier that is provided on a construction machine; and ...

server means for...

*creating an ownership communication period with a start and an end,
associating the ownership communication period with the terminal, ... and*

notifying a user that the ownership communication period is ending when the ownership communication period ends.

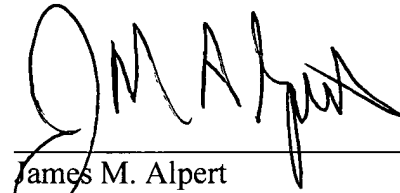
The applicants assert that these features of claims 16 and 22 are allowable for similar reasons as described above with respect to claim 1. Thus claims 1, 16, and 22 are submitted to be patentably distinguishable over Arakawa. With respect to the rejected dependent claims, the applicants respectfully submit that these claims are allowable because of their dependency from independent claims 1, 16, and 22 and also because of additional features they recite in combination.

Applicants strongly emphasize that one reviewing the prosecution history should not interpret any of the examples applicant has described herein in connection with distinguishing over the prior art as limiting to those specific features in isolation. Rather, for the sake of simplicity, applicants have provided examples of why the claims described above are distinguishable over the cited prior art.

In view of the foregoing, the applicants submit that this application is in condition for allowance. A timely notice to that effect is respectfully requested. If questions relating to patentability remain, the examiner is invited to contact the undersigned by telephone.

If there are any problems with the payment of fees, please charge any underpayments and credit any overpayments to Deposit Account No. 50-1147.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'J M Alpert', written over a horizontal line.

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